

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 151

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-17.2-2-1, AS AMENDED BY P.L.162-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The division shall perform the following duties:

- (1) Administer the licensing and monitoring of child care centers or child care homes in accordance with this article.
- (2) Ensure that a national criminal history background check of the applicant is completed through the state police department under IC 10-13-3-39 before issuing a license.
- (3) Ensure that a criminal history background check of a child care ministry applicant for registration is completed before registering the child care ministry.
- (4) Provide for the issuance, denial, suspension, and revocation of licenses.
- (5) Cooperate with governing bodies of child care centers and child care homes and their staffs to improve standards of child care.
- (6) Prepare at least biannually a directory of licensees with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.
- (7) Deposit all license application fees collected under section 2

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of this chapter in the child care fund.

(8) Require each child care center or child care home to record proof of a child's date of birth before accepting the child. A child's date of birth may be proven by the child's original birth certificate or other reliable proof of the child's date of birth, including a duly attested transcript of a birth certificate.

(9) Provide an Internet site through which members of the public may obtain the following information:

(A) Information concerning violations of this article by a licensed child care provider, including:

- (i) the identity of the child care provider;
- (ii) the date of the violation; and
- (iii) action taken by the division in response to the violation.

(B) Current status of a child care provider's license.

(C) Other relevant information.

The Internet site may not contain the address of a child care home **or information identifying an individual child**. However, the site may include the county and ZIP code in which a child care home is located.

(10) Provide or approve training concerning safe sleeping practices for children to:

(A) a provider who operates a child care program in the provider's home as described in IC 12-17.2-3.5-5(b); and

(B) a child care home licensed under IC 12-17.2-5;

including practices to reduce the risk of sudden infant death syndrome.

SECTION 2. IC 12-17.2-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter applies to all child care providers regardless of whether a provider is required to be licensed or registered under this article. **However, a child care provider that is licensed under IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with this chapter.**

(b) If a school age child care program that is:

- (1) described in IC 12-17.2-2-8(10); and
- (2) located in a school building;

is determined to be in compliance with a requirement of this chapter by another state regulatory authority, the school age child care program is considered to be in compliance with the requirement under this chapter.

SECTION 3. IC 12-17.2-3.5-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.1. (a) A provider shall, at no expense to the state, maintain and make available

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to the division upon request a copy of drug testing results for:

- (1) the provider, if the provider is an individual;
- (2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is at least eighteen (18) years of age; and
- (3) an individual who:
 - (A) is employed; or
 - (B) volunteers;
 as a caregiver at the facility where the provider operates a child care program.

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A provider that is not a child care ministry or a child care center shall maintain a written policy specifying the following:

- (1) That the:
 - (A) use of:
 - (i) tobacco;
 - (ii) alcohol; or
 - (iii) a potentially toxic substance in a manner other than the substance's intended purpose; and
 - (B) use or possession of an illegal substance;
 is prohibited in the facility where the provider operates a child care program when child care is being provided.
- (2) That drug testing of individuals who serve as caregivers will be:
 - (A) performed ~~on a random basis~~, based on a protocol established or approved by the division; and
 - (B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) A provider that is a child care ministry or a child care center shall maintain a written policy specifying the following:

- (1) That the:
 - (A) use of:
 - (i) tobacco; or
 - (ii) a potentially toxic substance in a manner other than the substance's intended purpose; and
 - (B) use or possession of alcohol or an illegal substance;
 is prohibited in the facility where the provider operates a child care program when child care is being provided.
- (2) That drug testing of individuals who serve as caregivers will be:

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(A) performed ~~on a random basis~~, based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(d) If:

(1) the drug testing results obtained under subsection (a), (b), or (c) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B); or

(2) an individual refuses to submit to a drug test;

the provider is ineligible to receive a voucher payment until the individual is suspended or terminated from employment or volunteer service at the facility or no longer resides with the provider.

(e) A provider that suspends an individual described in subsection (d) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B).

(f) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

SECTION 4. IC 12-17.2-4-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.5. (a) A child care center shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for an individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at the child care center. The drug testing results required under this subsection must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care center shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

(i) tobacco; or

(ii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of alcohol or an illegal substance;

is prohibited in the child care center when child care is being provided.

(2) That drug testing of individuals who serve as caregivers at the

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child care center will be:

- (A) performed ~~on a random basis~~, based on a protocol established or approved by the division; and
- (B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) If:

- (1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B); or
- (2) an individual refuses to submit to a drug test;

the child care center shall immediately suspend or terminate the individual's employment or volunteer service.

(d) A child care center that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B).

(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

(f) A child care center that does not comply with this section is subject to:

- (1) denial of an application for a license; or
- (2) suspension or revocation of a license issued;

under this chapter.

SECTION 5. IC 12-17.2-5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.5. (a) A child care home shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for:

- (1) the provider;
- (2) an individual who resides with the provider and who is at least eighteen (18) years of age; and
- (3) an individual who:
 - (A) is employed; or
 - (B) volunteers;

as a caregiver at the child care home.

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care home shall maintain a written policy specifying the following:

- (1) That the:

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(A) use of:

- (i) tobacco;
- (ii) alcohol; or
- (iii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of an illegal substance;

is prohibited in the child care home when child care is being provided.

(2) That drug testing of individuals who serve as caregivers at the child care home will be:

(A) performed ~~on a random basis~~; based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) If:

- (1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B); or
- (2) an individual refuses to submit to a drug test;

the child care home shall immediately suspend or terminate the individual's employment or volunteer service.

(d) A child care home that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B).

(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

(f) A child care home that does not comply with this section is subject to:

- (1) denial of an application for a license; or
- (2) suspension or revocation of a license issued;

under this chapter.

SECTION 6. IC 12-17.2-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** The division shall inspect a child care ministry registered under section 2 of this chapter to ensure that the child care ministry complies with the rules of the division adopted under IC 12-17.2-2-5(a).

(b) The division shall make an inspection **described in subsection (a):**

- (1)** at least ~~quarterly~~; **semiannually; and**

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(2) additionally as determined necessary by the division, but not more than four (4) inspections per year per child care ministry.

SECTION 7. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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